

March 28, 2005  
Case No. PHF 99,598 (7790/322)  
Serial No.: 09/551,816  
Filed: April 18, 2000  
Page 7 of 10

**REMARKS/DISCUSSION OF ISSUES**

In the Non-Final Office Action of December 29, 2004, Examiner Ferris rejected claims 7-18 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,314,269 B1 to *Hart et al.* The Applicant has thoroughly considered Examiner Ferris' remarks concerning the patentability of claims 7-18 over *Hart*. The Applicant has also thoroughly re-read *Hart*. To warrant this anticipation rejection of claims 7-18, *Hart* must show each and every limitation of independent claims 7, 10, 13 and 16 in as complete detail as is contained in independent claims 7, 10, 13 and 16. See, MPEP §2131. The Applicant respectfully traverses this anticipation rejection of claims 7-18, because asserts that *Hart* fails to disclose and teaches away from the following limitations of independent claims 7, 10, 13 and 16:

1. "selection means for, based on the acquired data, conditionally selecting at least an active secondary station and conditionally selecting at least an alternative secondary station suitable for becoming active" as recited in independent claims 7 and 13;
2. "based on the acquired data, conditionally selecting at least an active secondary station and conditionally selecting at least an alternative secondary station suitable for becoming active" as recited in independent claim 10; and
3. "based on the acquired data, conditionally select at least an active secondary station and conditionally select at least an alternative secondary station suitable for becoming active" as recited in independent claim 16.

March 28, 2005  
Case No. PHF 99,598 (7790/322)  
Serial No.: 09/551,816  
Filed: April 18, 2000  
Page 8 of 10

Specifically, a careful review of *Hart* reveals that *Hart* teaches a selection means for, based on the acquired data, unconditionally selecting at least an active secondary station and unconditionally selecting at least an alternative secondary station suitable for becoming active. In other words, upon acquiring the data, *Hart* will always select at least one active secondary station and at least one alternative secondary station irrespective of the state of the data whereby the data just determines which secondary station is active and which secondary station is alternative. Conversely, independent claims 7, 10, 13 and 16 require that the selection itself of active secondary station(s) and alternative secondary station(s) is conditional based on the acquired data.

Withdrawal of the rejection of independent claims 7, 10, 13 and 16 under §102(e) as being anticipated by *Hart* is therefore respectfully requested.

Claims 8 and 9 depend from independent claim 7. Therefore, dependent claims 8 and 9 include all of the elements and limitations of independent claim 7. It is therefore respectfully submitted by the Applicant that dependent claims 8 and 9 are allowable over *Hart* for at least the same reason as set forth herein with respect to independent claim 7 being allowable over *Hart*. Withdrawal of the rejection of dependent claims 8 and 9 under 35 U.S.C. §102(e) as being anticipated by *Hart* is respectfully requested.

Claims 11 and 12 depend from independent claim 10. Therefore, dependent claims 11 and 12 include all of the elements and limitations of independent claim 10. It is therefore respectfully submitted by the Applicant that dependent claims 11 and 12 are allowable over *Hart* for at least the same reason as set forth herein with respect to independent claim 10 being allowable over *Hart*. Withdrawal of the rejection of dependent claims 11 and 12 under 35 U.S.C. §102(e) as being anticipated by *Hart* is respectfully requested.

March 28, 2005  
Case No. PHF 99,598 (7790/322)  
Serial No.: 09/551,816  
Filed: April 18, 2000  
Page 9 of 10

Claims 14 and 15 depend from independent claim 13. Therefore, dependent claims 14 and 15 include all of the elements and limitations of independent claim 13. It is therefore respectfully submitted by the Applicant that dependent claims 14 and 15 are allowable over *Hart* for at least the same reason as set forth herein with respect to independent claim 13 being allowable over *Hart*. Withdrawal of the rejection of dependent claims 14 and 15 under 35 U.S.C. §102(e) as being anticipated by *Hart* is respectfully requested.

Claims 17 and 18 depend from independent claim 16. Therefore, dependent claims 17 and 18 include all of the elements and limitations of independent claim 16. It is therefore respectfully submitted by the Applicant that dependent claims 17 and 18 are allowable over *Hart* for at least the same reason as set forth herein with respect to independent claim 16 being allowable over *Hart*. Withdrawal of the rejection of dependent claims 17 and 18 under 35 U.S.C. §102(e) as being anticipated by *Hart* is respectfully requested.

March 28, 2005  
Case No. PHF 99,598 (7790/322)  
Serial No.: 09/551,816  
Filed: April 18, 2000  
Page 10 of 10

**SUMMARY**

The Applicant respectfully submits that claims 7-18 as listed herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, Examiner Ferris is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: March 28, 2005

Respectfully submitted,  
RAUL BRUZZONE

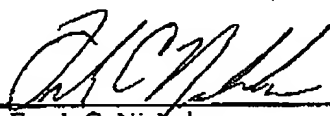
PHILIPS INTELLECTUAL PROPERTY  
& STANDARDS  
P.O. Box 3001  
Briarcliff, New York 10510  
Phone: (914) 333-9612  
Fax: (914) 332-0615

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Jack D. Slobod  
Registration No. 26,236  
Attorney for Applicant

CARDINAL LAW GROUP  
Suite 2000  
1603 Orrington Avenue  
Evanston, Illinois 60201  
Phone: (847) 905-7111  
Fax: (847) 905-7113

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Frank C. Nicholas  
Registration No. 33,983  
Attorney for Applicant